

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 113 Discretionary Sales Surtaxes

**SPONSOR(S):** Education Committee and Fresen

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 66

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	13 Y, 4 N	Flieger	Langston
2) Education Committee	17 Y, 1 N, As CS	Thomas	Mizereck
3) Appropriations Committee			

### SUMMARY ANALYSIS

The bill creates a ninth discretionary sales and use surtax in s. 212.055, F.S. This newly created “Higher Education Surtax” allows a county as defined in s. 125.011(1), F.S., to levy a surtax of up to 0.5 percent for the benefit of a Florida College System institution and a state university as defined by s. 1000.21, F.S., which is located within that county. To levy the surtax, a qualifying county must approve an ordinance via referendum subject to current law notification and ballot requirements.

Permissible uses of tax proceeds include, but are not limited to, expansion of academic and workforce training programs, teaching enhancements, and various types of fixed capital outlay.

The expense of holding the referendum, which may be held in a special election, may not be paid using student fees or state funding. The referendum must be paid only through funds received from private donors or with college auxiliary funds.

Should the referendum be successful, the surtax will last for 5 years. The funds raised by the surtax will be subject to oversight by a seven member board created by the bill.

The bill requires that 90 percent of the proceeds from the surtax be transferred to a Florida Prime account to be managed by the State Board of Administration (SBA) and used for the operation, maintenance, and administration of the Florida College System institution within that county and 10 percent of the proceeds from the surtax be transferred to a Florida Prime account to be managed by the SBA and used for the operation, maintenance, land acquisition, and administration of the state university within that county.

Currently, Miami-Dade is the only county in Florida whose charter satisfies the definition in s. 125.011(1), F.S. The only Florida College System institution and state university located within Miami-Dade County are Miami-Dade College and Florida International University, respectively. The bill prohibits any reduction in the annual apportionment of state funds allocated to support a Florida College System institution or a state university as a result of having received funds from a Higher Education Surtax.

The impact of the bill is indeterminate because it requires future county governing board action and voter approval. The bill has not been evaluated by the Revenue Estimating Conference. Finance and Tax committee staff estimate that, should it be approved, a 0.5 percent surtax in Miami-Dade County could raise \$224M in annual revenue.

The bill takes effect upon becoming a law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

Section 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S., and on communications services as defined in ch. 202, F.S.<sup>1</sup> The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state sales and use tax of 6 percent. The surtax does not apply to sales price above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any service, rentals of real property, or transient rentals.

The eight discretionary sales surtaxes and their maximum rates are:

- Charter County and Regional Transportation System Surtax, 1 percent
- Emergency Fire Rescue Services and Facilities Surtax, 1 percent
- Local Government Infrastructure Surtax, 1 percent
- Small County Surtax, 1 percent
- Indigent Care and Trauma Center Surtax, 0.5 percent
- County Public Hospital Surtax, 0.5 percent
- School Capital Outlay Surtax, 0.5 percent
- Voter-Approved Indigent Care Surtax, 1 percent

Every county is eligible to levy the School Capital Outlay and Local Government Infrastructure Surtaxes, the others have varying requirements. Section 212.055, F.S., further provides caps on the combined rates. The maximum discretionary sales surtax that any county can levy depends upon the county's eligibility. Currently, the highest surtax imposed is 1.5 percent in several counties;<sup>2</sup> however, the theoretical maximum combined rate ranges between 2 percent and 3.5 percent, depending on the specifics of each individual county.<sup>3</sup>

Section 212.054, F.S., requires that any increase or decrease in a discretionary sales surtax must take effect on January 1.

Of the four discretionary sales surtaxes Miami-Dade may levy, the county currently levies a 0.5 percent Charter County and Regional Transportation Surtax and a 0.5 percent County Public Hospital Surtax.

#### Effect of the Proposed Changes

The bill creates a ninth discretionary surtax in s. 212.055, F.S. The "Higher Education Surtax" allows a county as defined in s. 125.011(1), F.S.,<sup>4</sup> to levy a surtax of up to 0.5 percent for the benefit of a Florida College System institution and a state university as defined by s. 1000.21, F.S.,<sup>5</sup> which is located within that county. Miami-Dade is the only county in Florida whose charter satisfies the definition in s. 125.011(1), F.S., though Hillsborough and Monroe County are authorized to operate under such a

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<sup>1</sup> The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

<sup>2</sup> See DOR Form DR-15 DSS, "Discretionary Sales Surtax Information", available at <http://dor.myflorida.com/dor/forms/2013/dr15dss.pdf> (last visited 1/31/2013).

<sup>3</sup> See pg. 216-217 of the REC's 2013 Florida Tax Handbook, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2013.pdf> (last visited 1/9/14)

<sup>4</sup> A county "operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred."

<sup>5</sup> <http://data.fldoe.org/workforce/contacts/default.cfm?action=showList&ListID=52> (last accessed 1/9/14)

charter. The qualifying institutions currently located within Miami-Dade are Miami-Dade College and Florida International University.

To levy the surtax, a qualifying county must approve an ordinance via referendum. The ordinance must set forth the permissible uses of the surtax proceeds, which may include, but are not limited to, expansion of academic and workforce training programs, teaching enhancements, and various types of fixed capital outlay. The expense of holding the referendum may not be paid using student fees or state funding; the referendum must be paid only through funds received from private donors or with college auxiliary funds. The surtax expires 5 years after enactment.

The bill provides that if the referendum is successful, a seven member oversight board (board) shall be established to meet at least quarterly to review and accept or amend expenditures of the proceeds of the surtax prepared by the board of trustees. Members will be appointed to 4 year terms and may be reappointed.

The board shall be composed of:

- One member appointed by the board of directors of the chamber of commerce of the county in which the institutions are located,
- One member of the board of directors of the chapter of the United Way in the county in which the institutions are located appointed by the board of directors of that chapter of the United Way,
- One member appointed by the board of trustees of the state university who may not be a member of the board of trustees of the state university,
- Two members appointed by the board of trustees of the Florida College System institution who may not be members of the board of trustees of the Florida College System institution, and
- Two members appointed by the chair of the county legislative delegation.

The board of trustees of each the Florida College System institution and state university must annually prepare plans that specify how each board of trustees intends to allocate and expend the funds for the institution's upcoming fiscal year and submit such plan to the oversight board for approval.

The bill requires that 90 percent of the proceeds from the surtax must be transferred to a Florida Prime account to be managed by the State Board of Administration (SBA) and used for the operation, maintenance, and administration of the Florida College System institution and 10 percent of the proceeds from the surtax must be transferred to a Florida Prime account to be managed by the SBA and used for the operation, maintenance, land acquisition for parcels that are contiguous with its main campus, and administration of the state university.

The bill prohibits any reduction in the annual apportionment of state funds allocated to support a Florida College System institution or a state university as a result of having received funds from a Higher Education Surtax.

## B. SECTION DIRECTORY:

Section 1. Amends s. 212.055, F.S., creating a ninth discretionary surtax.

Section 2. Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The impact of the bill is indeterminate because it requires future county governing board action and voter approval. The bill has not been evaluated by the Revenue Estimating Conference. Based on the estimated countywide distribution of a 1 percent surtax in the Office of Demographic Research 2013 Local Government Financial Information Handbook, Finance and Tax staff estimate that, should it be approved, a 0.5 percent surtax in Miami-Dade could raise \$224M in annual revenue.<sup>6</sup>

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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<sup>6</sup> Office of Economic and Demographic Research, 2013 Local Government Financial Information Handbook , pg 163. Available at <http://edr.state.fl.us/Content/local-government/reports/lgh13.pdf> (last accessed 1/9/14)

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 6, 2014, the Education Committee adopted one amendment and reported HB 113 favorably as a committee substitute. The amendment required the oversight board to meet at least quarterly, instead of annually.

This analysis is drafted to the committee substitute as passed by the Education Committee.